

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

LIQUIDNET HOLDINGS INC.,

Plaintiff, Counterclaim
Defendant

v.

PULSE TRADING, INC.

Defendant, Counterclaim
Plaintiff

Case No. 07-CIV-6886 (GEL)(HBP)

**PULSE TRADING INC.'S ANSWER AND
COUNTERCLAIM TO COMPLAINT FOR
PATENT INFRINGEMENT**

ECF Case

Filed Electronically

Defendant Pulse Trading, Inc. (PTI) hereby responds to the allegations of the Complaint as follows:

1. PTI denies the allegations of paragraph 1 of the Complaint, except PTI admits that the Complaint recites an action for patent infringement, that a copy of the '834 patent is attached to the complaint, and further states that the '834 patent speaks for itself.

2. PTI denies the allegations of paragraph 2 of the Complaint, except that the '834 patent speaks for itself.

3. PTI denies the allegations of paragraph 3 of the Complaint, except that the '834 patent speaks for itself, and further PTI states that PTI is without knowledge or information sufficient to form a belief as to the alleged aspects of the LiquidNet System.

4. PTI is without knowledge or information sufficient to form a belief as to the truth of the statements in paragraph 4 of the Complaint.

5. Admitted.

6. PTI states that paragraph 6 of the Complaint states a legal conclusion as to which no response is required.

7. PTI states that paragraph 7 of the Complaint states a legal conclusion as to which no response is required.

1 8. PTI states that paragraph 8 of the Complaint states a legal conclusion as to which no
2 response is required.

3 9. PTI denies the allegations of paragraph 9 of the Complaint, except that PTI states that
4 it markets a software solution commercially known as “BlockCross,” that the BlockCross software is
5 designed, among other things, to “scrape” information from OMS databases, to use certain of that
6 information in a process which generates and transmits indications, and to update certain of that
7 information periodically.

8 10. PTI denies the allegations of paragraph 10, except that PTI states that Exhibit 2 and
9 Exhibit 3 of the Complaint speak for themselves.

10 11. Denied.

11 12. Denied.

12 13. Denied.

13 14. Denied.

14 15. Denied.

15 16. PTI states that paragraph 16 of the Complaint states a legal request as to which no
16 response is required. PTI requests a jury trial under Fed R. Civ. P. 38 on all issues in the Complaint
17 so triable.

18 **FIRST AFFIRMATIVE DEFENSE**

19 The ’834 patent is invalid for failure to meet the conditions for patentability of 35 U.S.C. §§
20 1, et seq.

21 **SECOND AFFIRMATIVE DEFENSE**

22 Plaintiff’s claims are barred by the doctrine of unclean hands.

23 **THIRD AFFIRMATIVE DEFENSE**

24 Plaintiff has failed to state a claim upon which relief can be granted.

COUNTERCLAIM

1
2 1. Counterclaim Plaintiff Pulse Trading, Inc. ("PTI") is a Massachusetts corporation
3 having its principal place of business at 2 Liberty Square, 2nd Floor, Boston, MA 02109.

4 2. Upon information and belief, Counterclaim Defendant Liquidnet Holdings, Inc. is a
5 Delaware Corporation having its principal place of business at 498 7th Avenue, New York, NY
6 10018.

7 3. This is a declaratory judgment action. PTI seeks a declaration that PTI has neither
8 infringed nor induced or contributed to the infringement of the U.S. Patent No. 7,136,834 (the "'834
9 patent").

10 4. This Court has jurisdiction over this counterclaim pursuant to 28 U.S.C. §§ 1331,
11 1332(a), 1338 and 2201. This counterclaim arises under the patent laws of the United States. There
12 is an actual controversy between the parties as to the infringement of the '834 patent, as is evidenced
13 by the Complaint in this case and the Answer that is set forth above.
14

15 **COUNT I: NON-INFRINGEMENT**

16 5. PTI has neither infringed nor induced or contributed to the infringement of the '834
17 patent.
18

19 **DEMAND FOR JURY TRIAL**

20 6. PTI requests a jury trial under Fed R. Civ. P. 38 on all issues in this counterclaim so
21 triable.
22

23 **PRAYER FOR RELIEF**

24 7. That the Court:
25 (a) declare that PTI has not infringed, and does not infringe, the claims of United
26 States Patent No. 7,136,834 B1;
27 (b) award PTI its reasonable attorneys' fees and costs incurred in connection with
28 this action;
(c) dismiss the Complaint with prejudice; and

(d) grant to PTI such other and further relief as it deems just in the circumstances.

Dated: August 21, 2007

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